

M3 JUNCTION 9 IMPROVEMENT PROJECT

WRITTEN REPRESENTATION OF SOUTHERN WATER SERVICES LIMITED (URN 20036806)

1. Southern Water's status and statutory responsibilities

- 1.1. We are instructed by Southern Water Services Limited (**Southern Water**) in relation to the application for a development consent order (**DCO**) made by National Highways (**the Applicant**) to authorise upgrades to Junction 9 of the M3 to allow free movement from the A34 to the M3 (**the Project**). This written representation is made on behalf of Southern Water ahead of Deadline 2 of the Examination on 15 June 2023.
- 1.2. As detailed in its Relevant Representation, Southern Water is the appointed water undertaker under the Water Industry Act 1991 for certain areas in the south-east of England comprising the Isle of Wight and parts of Hampshire, Sussex and Kent. Southern Water is also the appointed sewerage undertaker for the purposes of that same Act, comprising a larger continuous area stretching from Hampshire to Kent, including the Isle of Wight. As a result, Southern Water is subject to a number of strict statutory duties for the supply of water to c. 2.6 million people and providing sewerage services to c.4.6 million people.
- 1.3. Southern Water is the appointed water and sewerage undertaker for the entirety of the Order limits as defined in article 2(1) of the draft DCO [AS-004] (and the surrounding areas). Southern Water is therefore a statutory undertaker for the purposes of sections 127 and 138 of the Planning Act 2008 in relation to the Project.
- 1.4. Given its statutory duties, any development in areas where Southern Water is responsible for providing water and sewerage services, or over or near land in which Southern Water maintains assets and/or has other rights for the purposes of discharging its statutory duties, is carefully considered by Southern Water and the Project is no different.

2. Objection

- 2.1. At this present time, Southern Water maintains its objection (as first set out in its Relevant Representation) to the Project. Whilst Southern Water does not object *in principle* to the Project, its statutory duties compel it to object to the Project on the basis that, absent of satisfactory protections for its benefit, the Project would cause serious detriment to Southern Water's undertaking. Southern Water has the following overarching principal issues with the DCO application at present:
 - 2.1.1. the proposed operation of powers contained in the draft DCO authorising the Applicant to construct, operate and maintain works on, across, under, above or adjacent to Southern Water's operational assets which may impede Southern Water's ability to ensure the safe, efficient and economical provision of water and sewerage services and for Southern Water to discharge its statutory duties;
 - 2.1.2. the proposed operation of powers contained in the draft DCO authorising the Applicant to compulsorily acquire land, to compulsorily acquire rights in or over land, extinguish rights in land or take temporary possession of land in which Southern Water maintains assets and/or has other rights for the purposes of discharging its statutory duties;
 - 2.1.3. the fact that the intention of the Applicant appears to be for Southern Water to have no formal input into mitigation measures that are directly relevant to its functions (e.g. under the proposed Environmental Management Plan (second

iteration) secured by Requirement 3 in Schedule 2 to the draft DCO or surface water drainage details under Requirement 13 in that Schedule); and

- 2.1.4. the absence in the current draft DCO of satisfactory protective provisions for the benefit of Southern Water.

3. Engagement between Southern Water and the Applicant

- 3.1. As a preliminary point, it is worth noting that the Applicant has only undertaken limited engagement with Southern Water to date, with the most recent substantive engagement taking place in September 2022.
- 3.2. In summary, this engagement has been restricted to the progression of the 'conventional' C3 process for the Project under the New Roads and Street Works Act 1991, beginning in May 2019 and culminating in Southern Water providing a revised C3 budget estimate to Volker Fitzpatrick Ltd (the Applicant's contractors dealing with utility matters) on 2 September 2022 in respect of impacts to Southern Water's water supply infrastructure. It was not until 2 February 2023 that Volker Fitzpatrick Ltd responded in short form to Southern Water and requested that this scheme be progressed from C3 to C4, and in any event it was determined that this would be managed through the DCO process. No further engagement has taken place between the parties since then.
- 3.3. In addition, there has been no dialogue or communication to date between Southern Water and the Applicant or Volker Fitzpatrick Ltd regarding any impact on Southern Water's sewer network as a result of works proposed by the Project.
- 3.4. Southern Water has noted the Applicant's *Responses to Relevant Representations* submission [REP1-031], particularly the response given to Southern Water's relevant representation. It is stated that "*Discussions are ongoing with Southern Water*".
- 3.5. For the benefit of the Examining Authority, Southern Water wishes to make clear that in its view this is not an accurate characterisation of engagement between the parties to date. Nevertheless, Southern Water's solicitors have, since Deadline 1, been in contact with the Applicant's solicitors, with a view to discussing Southern Water's outstanding issues and it is understood that the Applicant wishes to engage positively moving forward, which is very much welcomed. Southern Water has also reached out to the Applicant's technical teams with a view to re-commencing technical engagement between the parties.

4. Further Detail on the impact of the DCO Scheme on Southern Water

- 4.1. Because of the lack of engagement with the Applicant to date, Southern Water is still considering the full extent of the impacts from the Project on its operations. However, below is a summary of the key issues that Southern Water has identified that need to be resolved.

Water Supply

- 4.2. Southern Water is still reviewing the potential impacts from the Project on its water supply apparatus, including in relation such apparatus that needs to be diverted and that apparatus that will remain in situ but require protection. Further engagement with the Applicant is required.
- 4.3. However, Southern Water has noted some preliminary comments from the DCO application documents.
- 4.4. The proposed temporary and permanent water mains diversions under the Project enter land which is currently in third-party ownership, at Itchen Down Farm, on the west side of the M3 London-bound carriageway. This land falls within the Order limits, but the detail on

the timing and nature of the rights to be acquired to facilitate these diversions is outstanding. It is Southern Water's assumption that the Applicant intends to secure all land required for diversions under the DCO.

- 4.5. The practicality of the diversion works need to be considered and agreed. For example, should Southern Water be carrying out the diversions on behalf of the Applicant, Southern Water will need to consider any additional compound or storage requirements, such as potentially requesting provision by the Applicant of shared use of their compound areas and temporary slip-roads.
- 4.6. Southern Water notes the proposed diversion of the 300mm D.I (ductile iron) water main and understands that the work will be carried out in two stages, with a temporary main being installed in the first instance. The new main will be laid in 355mm HPPE (high performance polyethylene).
- 4.7. This is a strategic trunk main which serves a large number of properties in Winnall and surrounding areas. As such, it is vital that there is significant engagement with all parties involved with this diversion during the construction phase. In particular, there will need to be close management of the connections to the existing mains network to ensure that the impact to Southern Water's existing customers is mitigated as much as possible, to avoid unnecessary disruption.
- 4.8. The permanent diversion arguably places Southern Water in a worse position as regards future asset access and maintenance, by having two sections of ducted mains and the remainder in highway embankments behind industrial units on Moorside Road, where currently all pipe is in the relatively more favourable setting of agricultural land. Southern Water wishes to discuss this further with the Applicant.
- 4.9. Southern Water notes the following stand-off distances that the Applicant will need to safeguard in respect of works in or near Southern Water's existing assets:

Fresh Water Main – Table of stand-off distance Requirements (m)

Depth to Crown (m)	Internal Diameter (mm)									
	<250	250-299	300-399	400-449	450-499	500-599	600-799	800-999	1000-1199	1200+
1.50	6	6	6	6	6	6	7	8	9	10
2.50	6	7	7	8	8	8	9	10	11	12
3.50	6	9	9	10	10	10	11	12	12	12
4.50	8	11	11	12	12	12	12	12	12	12

- 4.10. In addition, the Applicant is requested to engage with Southern Water on the impacts of any tree-planting proposals over or near Southern Water's re-laid assets.
- 4.11. It is acknowledged many (or all) of these points could be adequately addressed through satisfactory protective provisions for the benefit of Southern Water. As such, Southern Water wishes to engage with the Applicant on these as soon as possible.

Sewers

- 4.12. Southern Water has considered the sewers that may be affected as a result of the Project but the Applicant has not engaged with the Applicant on this. Early engagement is critical in order that the impact on these sewers can be discussed and any necessary diversions identified.
- 4.13. Otherwise, there is little comment that Southern Water can offer at this stage on sewer impacts without yet knowing the full extent of any diversion works required and therefore must maintain its objection, partly on this basis.

- 4.14. There also needs to be engagement with the Applicant on the surface water drainage proposals, as proposed to be secured by way of a requirement in Schedule 2 to the DCO.
- 4.15. As with the water supply infrastructure, it is acknowledged that many (or all) of these points could be adequately addressed through satisfactory protective provisions for the benefit of Southern Water. As such, Southern Water wishes to engage with the Applicant on these as soon as possible.

Land Interests

- 4.16. Southern Water is still reviewing the potential impacts from the Project on its land interests. Further engagement with the Applicant is required and welcomed.
- 4.17. However, Southern Water has noted some preliminary points from the DCO application documents.
- 4.18. Southern Water notes that none of its freehold land at the strategically important Easton Water Supply Works (**WSW**) (in the vicinity of the Project) appears to fall within the Project Order limits which is welcomed. However, suitable access will need to be maintained at all times (given its strategic nature) and Southern Water requests a commitment from the Applicant in this regard.
- 4.19. Fulling Mill Lane is a dead-end road and Southern Water's sole means of access to both its land interests north of the M3 (containing Easton No.2 Borehole underground source) and south of the M3 (containing Easton WSW (a strategic asset, as set out above), boreholes and related apparatus including multiple control valves on various strategic water distribution mains). Southern Water wishes to understand the Applicant's intentions for any road closures that may need to be implemented to facilitate the Project (given the powers contained in article 16 of the draft DCO to temporarily stop up *any* street), particularly for any works to upgrade or rebuild the M3 underpass, which would isolate access to the Easton No.2 borehole in this location. There is no alternative access from the north.

Water Sources

- 4.20. Southern Water is still reviewing the potential impacts from the Project on its water sources. Further engagement with the Applicant is required and welcomed.
- 4.21. However, Southern Water has noted some preliminary points from the DCO application documents.
- 4.22. Southern Water notes that the abstraction boreholes at Easton WSW fall within close proximity to the Project Order limits. Southern Water notes that it may be necessary to consider the potential hydrogeological impacts of any nearby earthworks on these sources and the impact of the exercise of any DCO powers outside of the Order limits (e.g. under article 23 of the DCO).
- 4.23. Further information is also required on the proposed use of, for example, the powers contained in article 21 of the DCO (power to discharge water).
- 4.24. In addition, Southern Water references the M4 J3-12 Smart Motorway Scheme and South East Water boreholes at Bray, Maidenhead, in which the Applicant covered the cost of a standby Amazon filter to mitigate the risk of embankment works impacting on borehole water quality. Southern Water would appreciate further discussions with the Applicant on similar matters.
- 4.25. In addition, as alluded to above, Southern Water wishes to engage further with the Applicant to ensure it has a sufficiently robust role in the development of mitigation

measures relevant to its operations under, for example, the requirements contained in Schedule 2 to the draft DCO.

Hydrogeological Risk Assessment

- 4.26. Southern Water has reviewed the Hydrogeological Risk Assessment (**HRA**) [APP-144] prepared for the Project, which is drafted as a contaminated land assessment and does not consider the full range of groundwater related construction and operational impacts of the Project.
- 4.27. The HRA is predominantly focused on the Detention Basin operational impacts. Unfortunately, it does not consider the potential hydrogeological risks to Southern Water's groundwater source, in the list of receptors, and the wider range of construction activities are not considered. For example, the HRA does not provide assessment on cutting impacts, historic landfill disturbance, turbidity risks or construction works within the Source Protection Zones.
- 4.28. The HRA needs to be updated to reflect all potential impacts the Project could have on Southern Water's groundwater sources. It should also be updated with all previously raised concerns, as these do not feature in the report.
- 4.29. Southern Water has previously provided long term groundwater level monitoring data to the Applicant. This does not feature in the baseline setting for the Project. This is a likely indicator that there is a disconnect of information. This need to be addressed.
- 4.30. The Conceptual Site Model in the HRA (Section 4) discusses mitigations under sources, as per the Source-Pathway-Receptor (**SPR**) model. As the mitigation options are not described in detail, this causes a degree of confusion between sources of contamination and mitigation. Southern Water suggests this is relocated to pathway or elsewhere. Many receptors listed in the baseline section are not presented in the receptors section, this needs to be updated. The baseline section identifies fracture networks in the Chalk, but the risk assessment does not incorporate this information. No karst information is presented in the report and the two mentions of karsts in the report are via a copy of a BGS dataset. There is a disconnect between the baseline information and pathways of the SPR which requires addressing.
- 4.31. The Baseline data, Conceptual Site Model and HRA would need amendment to address these concerns. It is important to note that impact assessments will need to adopt Drinking Water Standards (DWS) where the receptor is a public water supply or private water supply when considering water quality impacts.

Other

- 4.32. All of Southern Water's professional fees, and any third-party compensation it is required to pay when implementing diversions or related works, should ultimately be payable by the Applicant.

5. Protective Provisions

- 5.1. Southern Water notes the 'standard' set of protective provisions for the benefit of statutory undertakers contained in Part 1 of Schedule 10 to the draft Order. As has been communicated to the Applicant, these are unsatisfactory to Southern Water in a number of areas. Southern Water wishes to engage with the Applicant with a view to reaching agreement on a satisfactory form of protective provisions for the benefit of Southern Water, to deal with the impacts on its interests so as to avoid serious detriment to its undertaking arising from the Project. It is considered likely that all the issues raised above could be resolved through such means.

6. Current Position

- 6.1. If the Applicant and Southern Water can reach agreement on the form of protective provisions to address the concerns detailed above, Southern Water considers that its objection could be resolved swiftly. However, Southern Water is compelled to maintain its objection to the Project at this stage absent such agreement with the Applicant.
- 6.2. Southern Water will seek to positively engage with the Applicant on these points.

Pinsent Masons LLP

15 June 2023